



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

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STATE WATER CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO

CROSSROADS HOLDINGS, LLC

FOR

CROSSROADS QUICKLANE

**Virginia Pollutant Discharge Elimination System Permit Registration No.
VAR10H311**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 62.1-44.15, 62.1-44.15:25, and 62.1-44.15:48, between the State Water Control Board and Crossroads Holdings LLC, regarding the Crossroads Quicklane, for the purpose of resolving certain violations of the State Water Control Law and the applicable permit and regulation.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
2. "Construction activity" means any clearing, grading or excavation resulting in land disturbance of equal to or greater than one acre, or disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one acre.)
3. "Crossroads" means Crossroads Holdings, LLC, a limited liability company authorized to do business in Virginia and its members, affiliates, partners, and subsidiaries. Crossroads is a "person" within the meaning of Va. Code § 62.1-44.3.

4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
5. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
6. "Discharge" means the discharge of a pollutant.
7. "Discharge of a pollutant" means:
 - a. Any addition of any pollutant or combination of pollutants to surface waters from any point source; or
 - b. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.
8. "General Permit Regulation" means the General VPDES Permit for Discharges of Stormwater from Construction Activities, 9 VAC 25-880-1 et seq.
9. "Land disturbance" or "land-disturbing activity" means a man-made change to the land surface that potentially changes its runoff characteristics including clearing, grading, or excavation, except that the term shall not include those exemptions specified in Va. Code § 62.1-44.15:34.
10. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
11. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
12. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
13. "Site" means the Crossroads Quicklane located off Route 144, next to Crossroads Ford of Prince George at 4500 Whitehill Blvd, Prince George, VA 23875, from which discharges of stormwater associated with construction activity occur.
14. "State Permit" means the General VPDES Permit for Discharges of Stormwater from Construction Activities, No. VAR10, promulgated at 9 VAC 25-880-70, which was issued under the State Water Control Law, the VSMP Regulations, and the General Permit Regulation on July 1, 2014 and which expires on June 30, 2019.
15. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Va. Code.

16. "State Waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
17. "Stormwater" means precipitation that is discharged across the land surface or through conveyances to one or more waterways and that may include stormwater runoff, snow melt runoff, and surface runoff and drainage. Va. Code § 62.1-44.15:24.
18. "SWPPP" means Stormwater Pollution Prevention Plan, which is a document that is prepared in accordance with good engineering practices and that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater discharges. A SWPPP required under a VSMP for construction activities shall identify and require the implementation of control measures, and shall include, but not be limited to the inclusion of, or the incorporation by reference of an approved erosion and sediment control plan, an approved stormwater management plan, and a pollution prevention plan. 9 VAC 25-870-10.
19. "TMDL" means Total Maximum Daily Load, the sum of the individual wasteload allocations for point sources, load allocations for nonpoint sources, natural background loading and a margin of safety. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The TMDL process provides for point versus nonpoint source trade-offs.
20. "Va. Code" means the Code of Virginia (1950), as amended.
21. "VAC" means the Virginia Administrative Code.
22. "Virginia Stormwater Management Act" means Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 of the Va. Code.
23. "VPDES" means Virginia Pollutant Discharge Elimination System.
24. "VSMP" means the Virginia Stormwater Management Program, which is a program approved by the Soil and Water Conservation Board after September 13, 2011, and until June 30, 2013, or the State Water Control Board on and after June 30, 2013, that has been established by a VSMP authority to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, rules, permit requirements, annual standards and specifications, policies and guidelines, technical materials, and requirements for plan review, inspection, enforcement, where authorized in this article, and evaluation consistent with the requirements of this article and associated regulations. Va. Code § 62.1-44.15:24.
25. "VSMP authority" means an authority approved by the Board after September 13, 2011, to operate a VSMP or, until such approval is given, the Department. An authority may include a locality; state entity, including the Department; federal entity; or for linear projects subject annual standards and specifications in accordance with subsection B of §

62.1-44.15-31, electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to § 15.2-5102. Va. Code § 62.1-44.15:24.

26. "VSMP Regulations" means the Virginia Stormwater Management Program (VSMP) Regulations, 9 VAC 25-870-10 et seq.
27. "Warning Letter" or "WL" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.

SECTION C: Findings of Fact and Conclusions of Law

1. Crossroads is the operator of construction activities at the Site located in Prince George County, Virginia, which discharges stormwater associated with construction activity.
2. DEQ is the VSMP authority for Prince George County, Virginia.
3. Crossroads applied for and, on September 3, 2014 was granted coverage under the State Permit, VAR10 of the General Permit Regulation. Crossroads was assigned registration number VAR10H311.
4. The State Permit allows Crossroads to discharge stormwater associated with construction activities from the Site to the Appomattox River, in compliance with the terms and conditions of the State Permit.
5. The Appomattox River is a surface water located wholly within the Commonwealth and is a "state water" under the State Water Control Law.
6. The Appomattox River is located in the James River Basin. The Appomattox River is subject to a TMDL for sediment and nutrients.
7. During DEQ Site inspections on January 13, 2016 and March 31, 2016, DEQ staff documented that the pollution prevention plan did not identify or describe the location of any of the potential pollutant generating activities at the Site.

State Permit Part II(A)(4) requires that the SWPPP include "A pollution prevention plan that addresses potential pollutant-generating activities that may reasonably be expected to affect the quality of stormwater discharges from the construction activity, including any support activity. The pollution prevention plan shall:

- a. Identify the potential pollutant-generating activities and the pollutant that is expected to be exposed to stormwater;
- b. Describe the location where the potential pollutant-generating activities will occur, or if identified on the site plan, reference the site plan;"

9 VAC 25-870-54(D) states, "A pollution prevention plan that identifies potential sources of pollutants that may reasonably be expected to affect the quality of stormwater

discharges from the construction site and describe control measures that will be used to minimize pollutants in stormwater discharges from the construction site must be developed before land disturbance commences.”

8. During DEQ Site inspections on October 13, 2015, November 3, 2015, November 18, 2015, January 13, 2016, and March 31, 2016, DEQ staff observed that the SWPPP was not updated to include a record of dates of major grading activities, dates when construction activities temporarily or permanently ceased, dates of initiating stabilization measures, and areas no longer under the control of the operator and dates on which the operator no longer had legal control.

State Permit Part II(B)(4) requires the operator to “update the SWPPP no later than seven days following any modification to its implementation. All modifications or updates to the SWPPP shall be noted and shall include the following items:

a. A record of dates when:

- (1) Major grading activities occur;
- (2) Construction activities temporarily or permanently cease on a portion of the site; and
- (3) Stabilization measures are initiated;

....

d. All properties that are no longer under the legal control of the operator and the dates on which the operator no longer had legal control over each property;”

9 VAC 25-870-54(G) requires the SWPPP to be “amended whenever there is a change in design, construction, operation, or maintenance that has a significant effect on the discharge of pollutants to state waters and that has not been previously addressed in the SWPPP.”

9. During DEQ Site inspections on November 18, 2015, January 13, 2016, and March 31, 2016, DEQ staff documented that the last inspection report contained in the SWPPP was dated November 2, 2015. The Site discharges stormwater to the Appomattox River, for which TMDL wasteload allocations for sediment and nutrients were established in 2010.

State Permit Part II(B)(4) requires that when a construction site discharges stormwater to surface waters with a TMDL wasteload allocation for sediment or nutrients established and approved before July 1, 2014, SWPPP inspections must be conducted at a frequency of “(i) at least once every four business days or (ii) at least once every five business days and no later than 48 hours following a measurable storm event. In the event that a measurable storm event occurs when there are more than 48 hours between business days, the inspection shall be conducted on the next business day.”

State Permit Part II(F)(4) states, “The inspection report and any actions taken in accordance with Part II must be retained by the operator as part of the SWPPP for at least three years from the date that general permit coverage expires or is terminated.”

10. Based on the results of the inspections on October 13, 2015, November 3, 2015, November 18, 2015, January 13, 2016, and March 31, 2016, the Board concludes that Crossroads violated 9 VAC 25-870-54, and the conditions of Parts I(B)(4), II(A)(4), II(B)(4), and II(F)(4) of the State Permit, as described in paragraphs C(7)-(9) of this Order.
11. PRO issued a Warning Letter and a Notice of Violation for the violations noted above as follows: WL No. 2016-01-PRO-301, issued February 3, 2016; and NOV No. 2016-04-PRO-201, issued April 15, 2016.
12. On April 25, 2016, Department staff spoke with Crossroad's representative to discuss the violations.
13. During a DEQ Site inspection on August 23, 2016, DEQ staff documented that the violation described in paragraph C(7) has been corrected.
14. In order for Crossroads to complete its return to compliance, DEQ staff and Crossroads have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, 62.1-44.15:25, and 62.1-44.15:48, the Board orders Crossroads, and Crossroads agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$8,583.50 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Crossroads shall include its Federal Employer Identification Number (FEIN) (56-1985199) with the civil charge payment **and** shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Stormwater Management Fund. If the Department has to refer collection of moneys due under this Order to the Department of Law, Crossroads shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Crossroads for good cause shown by Crossroads, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 et seq., after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. 2016-04-PRO-201 dated April 15, 2016 and WL No. 2016-01-PRO-301 dated February 3, 2016. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Crossroads admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Crossroads consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Crossroads declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Crossroads to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Crossroads shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Crossroads shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Crossroads shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance;
and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Crossroads. Nevertheless, Crossroads agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Crossroads has completed all of the requirements of the Order;
 - b. Crossroads petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Crossroads.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Crossroads from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Crossroads and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Crossroads certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind

Crossroads to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Crossroads.

14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Crossroads voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2016.

Jefferson D. Reynolds, Enforcement Director
Department of Environmental Quality

------(Remainder of Page Intentionally Blank)-----

Crossroads Holdings, LLC voluntarily agrees to the issuance of this Order.

Date: 8-29-16 By: [Signature],
(Person) (Title)
Crossroads Holdings, LLC

State of North Carolina
~~Commonwealth of Virginia~~
City/County of VANCE

The foregoing document was signed and acknowledged before me this 29th day of
August, 2016, by Glenn A. Boyd who is
Member/Manager of Crossroads Holdings, LLC, on behalf of the company.

[Signature]
Notary Public

19970340099
Registration No.

My commission expires: 3/6/2017

Notary seal:



APPENDIX A SCHEDULE OF COMPLIANCE

1. SWPPP

- a. Within thirty days of the effective date of this order, Crossroads shall submit an updated SWPPP for DEQ review and approval, including updates documenting dates of major grading activities, dates when construction activities temporarily or permanently ceased, dates of initiating stabilization measures, and areas no longer under the control of the operator and dates on which the operator no longer had legal control.
- b. Crossroads shall respond to any DEQ comments regarding the items submitted pursuant to paragraph 1(a) within fourteen days from the date of the DEQ comments.
- c. Upon DEQ approval, Crossroads shall immediately implement the updated SWPPP.

2. Inspections, Recordkeeping and Reporting

- a. Crossroads shall comply with the provisions of Part I(B)(4) and II(F)(4) of the State Permit with respect to conducting site inspections and making and retaining inspection reports.

3. DEQ Contact

Unless otherwise specified in this Order, Crossroads shall submit all requirements of Appendix A of this Order to:

Carla Pool
Enforcement Adjudication Manager
VA DEQ – Central Office
629 East Main Street
Richmond, Virginia 23219
(804) 698-4150
Carla.Pool@deq.virginia.gov